

CITY OF HAYWARD

AGENDA REPORT

AGENDA DATE 04/26/05

AGENDA ITEM 4

WORK SESSION ITEM _____

TO: Mayor and City Council

FROM: Director of Community and Economic Development

SUBJECT: Maintenance District No. 2 – Eden Shores Buffer Zone and Pre-Treatment Pond - Approve the Engineer's Report and Order Levying of Assessments and the Setting of Collection Rates for FY 2005-06

RECOMMENDATION:

It is recommended that the City Council adopt the attached resolution pertaining to Maintenance District No. 2.

DISCUSSION:

Maintenance District No. 2 ("MD 2") was formed to fund the operation and maintenance of storm water facilities and the water buffer bordering the residential portion of Eden Shores. The District encompasses the three residential tracts in Eden Shores, totaling 525 homes.

The storm water facility, a pretreatment pond, is located adjacent to the pumping station in the business park. The Alameda County Flood Control District (ACFCD), based on their experience with prior year's expenditures and similar storm water pretreatment ponds, provided the operating budget amounts in the Engineer's Report. Standard Pacific completed construction of the pond last year, and the ACFCD will operate and maintain the pond starting this winter.

The water buffer consists of the landscaping, recirculating pumps and filters, maintenance roads, pedestrian bridge, and anti-predator and perimeter fencing. Per the conditions of approval for the tentative map, Standard Pacific is required to fund and operate the water buffer channel for "not less than 24 months, nor more than 36 months after completion of buffer construction and demonstrated satisfactory performance, as approved by the Director of Public Works." The developer anticipates completion of these improvements this year, with M.D.2 potentially taking over responsibility in 2007 or 2008. At that time, maintenance and operation costs will be funded and paid for through M.D. 2. The proposed FY 2005-06 collection rate of \$155.00 per parcel is the same as last year.

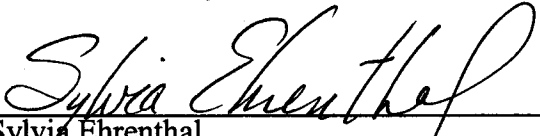
On March 8, 2005, the City Council adopted a resolution of intention to levy the annual assessment for Maintenance District No. 2. On March 23 and April 14, 2005, neighborhood meetings were held and one resident from Eden Shores attended.

Prepared by:

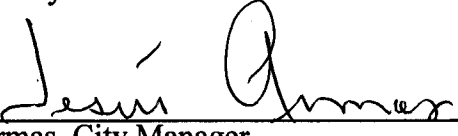
A handwritten signature in black ink, appearing to read "Andrew S. Gaber", is written over a horizontal line.

Andrew S. Gaber, P. E.
Development Review Engineer

Recommended by:


Sylvia Ehrental
Director of Community and Economic Development

Approved by:


Jesús Armas, City Manager

Exhibits:

Engineer's Report
Draft Resolution

4/11/05

FINAL ENGINEER'S REPORT

CITY OF HAYWARD

MAINTENANCE DISTRICT No. 2
(Eden Shores)

Fiscal Year 2005-06



April 26, 2005

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CITY COUNCIL MEMBERS AND CITY STAFF

Roberta Cooper
Mayor

Kevin Dowling
Council Member

Barbara Halliday
Council Member

Olden Henson
Council Member

Matt Jimenez
Council Member

Bill Quirk
Council Member

William Ward
Council Member

Jesus Armas
City Manager

Michael O'Toole
City Attorney

Angelina Reyes
City Clerk

Dan Nagle
Landscape Manager

Andrew S. Gaber
Engineer of Work

ENGINEER'S REPORT

CITY OF HAYWARD
MAINTENANCE DISTRICT NO. 2
FISCAL YEAR 2005-06

The undersigned, acting of behalf of the City of Hayward, respectfully submits the enclosed Engineer's Report as directed by the City of Hayward City Council. The undersigned certifies that he is a Professional Engineer, registered in the State of California.

Dated: _____

By: _____
Andrew S. Gaber, P.E.
RCE No. 45187

I HEREBY CERTIFY that the Engineer's Report, together with the Assessment Roll and Assessment Diagram thereto attached, was filed with me on the ____ day of _____, 2005.

Angelina Reyes
City Clerk, City of Hayward

By: _____

I HEREBY CERTIFY that the enclosed Engineer's Report, together with the Assessment Roll and the Assessment Diagram thereto attached, was approved and confirmed by the City Council of the City of Hayward, Alameda County, California, on the ____ day of _____, 2005.

Angelina Reyes
City Clerk, City of Hayward

By: _____

I HEREBY CERTIFY that the enclosed Engineer's Report, together with the Assessment Roll and the Assessment Diagram thereto attached, was filed with the County Auditor of the County of Alameda, on the ____ day of _____, 2005.

By: _____
Andrew S. Gaber, P.E.
RCE No. 45187

SECTION I

**INTRODUCTION
ENGINEER'S REPORT**

**CITY OF HAYWARD
MAINTENANCE DISTRICT NO. 2**

FISCAL YEAR 2005-06

Background Information

On April 16, 2002, by Resolution No. 02-043, the City Council approved the Final Map of Tract 7317 for a 114 lot residential subdivision, with 109 single-family homes, located on the northerly side of Eden Shores Boulevard and westerly of the Union Pacific Railroad.

On November 26, 2002, by Resolution No. 02-171, the City Council approved the Final Map of Tract 7361 for a 120 lot residential subdivision, with 116 single-family homes, located on the southerly side of Eden Shores Boulevard and westerly of the Union Pacific Railroad.

On June 3, 2003, by Resolution No. 03-083, the City Council approved the Final Map for Tract 7360, for a 318 lot residential subdivision, with 309 single-family homes located on the southwesterly side of Eden Shores Drive and westerly of the Union Pacific Railroad. The additional lots in each subdivision, 27 total, will be landscaped areas, parks, wetlands or buffer areas.

Conditions of approval for Tracts No. 7317, 7360 and 7361, included provisions for construction of a water buffer channel and storm-water pretreatment pond, masonry walls, anti-predator fences, and landscaping within the proposed development area. Maintenance District No. 2 will provide a funding source to operate and maintain these improvements, including the furnishing of water and electrical energy along with debris removal, weeding, trimming and pest control spraying.

On June 24, 2003, by Resolution No. 03-102, the City Council ordered the formation of Maintenance District No. 2 to provide the funding for the operation and maintenance of these facilities.

Proposition 218 Compliance

On November 5, 1996, California voters approved Proposition 218 entitled "Right to Vote On Taxes Act," which added Articles XIIC and XIID to the California Constitution. While its title refers only to taxes, Proposition 218 establishes new procedural requirements for the formation and administration of assessment districts.

These new procedures stipulate that, even if assessments are initially exempt from Proposition 218, future increases in assessments must comply with the provisions of Proposition 218. However, if the increase in assessment was anticipated in the assessment formula (e.g., Consumer Price Index (CPI) increase or assessment cap) then the City would be in compliance with the provisions of Proposition 218 if the assessments did not exceed the previously approved assessment formula.

For FY 2005-06, the proposed collection rate is \$155.00 per parcel, the same as the current fiscal year. Since the proposed FY 2005-06 assessment is below the maximum base assessment, Proposition 218 proceedings are not needed.

Current Annual Administration

The annual Engineer's Report includes: (1) a description of the improvements to be operated, maintained and serviced, (2) an estimated budget, and (3) a listing of the proposed collection rate to be levied upon each assessable lot or parcel.

The City of Hayward will hold a public hearing on April 26, 2005, to provide an opportunity for any interested person to be heard. At the conclusion of the public hearing, the City Council may adopt a resolution confirming the levy of assessments as originally proposed or as modified. Following the adoption of this resolution, the final Assessor's Roll will be prepared and filed with the County Auditor's office to be included on the FY 2005-06 tax roll.

Payment of the assessment for each parcel will be made in the same manner and at the same time as payments are made for property taxes. All funds collected through the assessment must be placed in a special fund and can only be used for the purposes stated within this report.

SECTION II

**ENGINEER'S REPORT PREPARED PURSUANT TO THE PROVISIONS
OF CHAPTER 26 OF PART 3 OF DIVISION 7 OF THE STREETS AND HIGHWAYS
CODE OF THE STATE OF CALIFORNIA**

**CITY OF HAYWARD
MAINTENANCE DISTRICT NO. 2**

FISCAL YEAR 2005-06

Pursuant to Part 3, Division 7 of the Streets and Highways Code of the State of California and the Chapter 10, Article 10 of the Hayward Municipal Code, and in accordance with the Resolution of Intention, being Resolution No. 05-16, Preliminarily Approving the Engineer's Report, on March 8, 2005, by the City Council of the City of Hayward, County of Alameda, State of California, in connection with the proceedings for:

**CITY OF HAYWARD
MAINTENANCE DISTRICT No. 2**

Hereinafter referred to as the "District", I, Andrew S. Gaber, the duly appointed ENGINEER OF WORK, submit herewith the "Report" consisting of five (5) parts as follows:

PART A: PLANS AND SPECIFICATIONS

This part describes the improvements in the District. Plans and specifications for the improvements are as set forth on the lists thereof, attached hereto, and are on file in the Office of the City Clerk of the City of Hayward, and are incorporated herein by reference.

PART B: ESTIMATE OF COST

This part contains an estimate of the cost of the proposed improvements, including incidental costs and expenses in connection therewith, as set forth on the lists thereof, attached hereto, and are on file in the Office of the City Clerk of the City of Hayward.

PART C: MAINTENANCE ASSESSMENT DISTRICT DIAGRAM

This part incorporates, by reference, a Diagram of the Maintenance Assessment District showing the exterior boundaries of the Maintenance Assessment District and the boundaries of any zones within the Maintenance Assessment District.

PART D: METHOD OF APPORTIONMENT OF ASSESSMENT

This part describes the method of apportionment of assessments based upon the parcel classification of land within the Assessment District, and in proportion to the estimated benefits to be received.

PART E: PROPERTY OWNER LIST & ASSESSMENT ROLL

This part contains an assessment of the estimated cost of the improvements on each benefited lot or parcel of land within the Assessment District. The Assessment Roll is filed in the Office of the Hayward City Clerk.

PART A

PLANS AND SPECIFICATIONS

The facilities, which have been constructed within the City of Hayward's Maintenance District No. 2 boundaries, and those which may be subsequently constructed, will be operated, maintained and serviced and are generally described as follows:

DESCRIPTION OF IMPROVEMENTS

CITY OF HAYWARD
MAINTENANCE DISTRICT No. 2

FISCAL YEAR 2005-06

The following improvements are proposed to be operated, maintained and serviced in Maintenance District No. 2 for FY 2005-06:

- *Water Buffer Channel;*
- *Storm-water Pre-Treatment Pond;*
- *Masonry Walls;*
- *Anti-predator Fences; and*
- *Miscellaneous Landscaping*

The operation, maintenance and servicing of these improvements include, but are not limited to: personnel; water, for irrigation and buffer replenishment; electrical energy; materials, including diesel fuel and oil, debris removal, weeding, trimming, pest control spraying, etc.

For FY 2005-06, the collection rate will remain the same as the current fiscal year at \$155.00 per parcel. This amount is sufficient to fund required maintenance and administrative activities, and allow the capital reserve fund to grow so that future major expenditures, such as replacement of the predator fencing or one of the water buffer pumps, can be accommodated without a substantial increase in the yearly collection rate. If in future years, there is a need for additional funds, the collection rate may be increased up to the base assessment rate, currently \$667.44 per parcel. This base assessment amount is increase annually based upon the change in the Consumer Price Index. Future increases in the collection rate up to the base assessment amount would not require the noticing and balloting of property owners per the requirements of Proposition 218.

PART B

ESTIMATE OF COST

Chapter 10, Article 10 of the Hayward Municipal Code and as supplemented by the provisions of Chapter 26 of Part 3 of Division 7 of the Streets and Highways Code of the State of California provides that the total cost of operation, maintenance and servicing of the water buffer channel, water treatment pond, masonry walls, anti-predator fences and landscaping can be recovered by the District. Incidental expenses including administration of the District, engineering fees, legal fees and all other costs associated with these improvements can also be included.

The base assessment rate was set at \$655.00 per parcel for the base year July 1, 2003 with an automatic allowance for a CPI increase annually. On July 1, 2003, the CPI Index was set at 192.25. The CPI Index for December 1, 2004 was 195.90, which translates to a 1.899% (195.90/192.25) increase since the base year. Therefore, the revised base assessment that could be levied in FY 2005-06 is \$667.44 per parcel. Future CPI increases in the base assessment rate do not require the noticing and balloting of property owners per the requirements of Proposition 218.

The costs for FY 2005-06 are summarized on the following page. These cost estimates have been provided by the City of Hayward.

TABLE 1: COST ESTIMATE FY 2005-2006 Maintenance District No. 2 - Eden Shores	
	FY 2005-06 Budget
<u>I. MAINTENANCE COSTS</u>	
(a) Landscaping maintenance including debris removal, weeding, trimming, and spraying	\$7,500.00
(b) Masonry wall (surface maintenance)	\$800.00
(c) Electrical energy	\$400.00
(d) Irrigation and buffer replenishment water	\$8,000.00
(e) Predator fence maintenance	\$9,000.00
(f) Steel structures maintenance	\$4,200.00
(g) Buffer lake maintenance	\$13,000.00
(h) Pre-treatment pond	\$10,000.00
(i) Contingency (15%)	\$7,935.00
Total Maintenance Cost	\$60,835.00
<u>II. INCIDENTAL COSTS</u>	
(a) Administration (City)	\$2,500.00
(b) Engineer's Report, preparation of documents, printing, and advertising	\$3,300.00
(c) County Collection Charges (1.7%)	\$1,383.38
Total Incidental Costs	\$7,183.38
<u>III. RESERVES</u>	
(a) Operating Reserves (50% of Maintenance & Incidentals) ¹	\$34,009.19
(b) Capital Reserves ²	\$106,251.22
Total Reserve Costs	\$140,260.41
<u>IV. TOTAL ASSESSABLE COSTS</u>	\$208,278.79
Less Surplus from prior fiscal year	<u>\$126,903.79</u>
NET ASSESSMENT COLLECTION FOR FISCAL YEAR	\$81,375.00
Number of Assessable Parcels	525
Collection per Parcel	\$155.00
Base Assessment per Parcel	\$667.44
<u>NOTES:</u>	
(1) Operating reserves are needed for future fiscal years because the City does not receive the assessment revenue from the County until January, therefore it is necessary to have an operating reserve fund to cover 6 months of cash flow from July 1 through December 31 each fiscal year.	
(2) In the event capital facilities need replacement because of failure, damage or vandalism these funds will be used. Since the developer is responsible for a 1 year maintenance period the capital reserves will be collected next fiscal year.	

PART C

ASSESSMENT DISTRICT DIAGRAM

The Assessment District Diagram for the City of Hayward's Maintenance District No. 2 (Eden Shores) is on file in the Office of the Hayward City Clerk and is incorporated in this report on the following page.

A detailed description of the lines and dimensions of each lot or parcel within the Assessment District are those lines and dimensions shown on the maps of the Assessor of the County of Alameda for FY 2005-06.

For additional information as to the bearings, distances, monuments, easements, etc. of subject subdivisions, reference is hereby made to Tracts No. 7317, 7360 and 7361 filed in the Office of the Recorder of Alameda County.

**APPROVED
ENGINEER OF WORK**

BY: _____ DATE _____

Filed in the Office of the City Clerk of the City of Hayward, County of Alameda, State of California
this _____ Day of _____

**CITY CLERK, CITY OF HAYWARD
COUNTY OF ALAMEDA, CALIFORNIA**

An assessment was Confirmed and Levied by the City of Hayward, California, on the Lots, Pieces
and Parcels of Land shown on this Assessment Diagram on the _____ Day of _____
and said Assessment Diagram and the Assessment Roll were
filed in the Office of the City Clerk, City of Hayward on the _____ Day of _____
Reference is made to said Recorded Assessment Roll for the
Exact Amount of each Assessment levied against each Parcel of Land Shown on the Assessment
Diagram.

CITY CLERK, CITY OF HAYWARD, CA

COUNTY AUDITOR'S CERTIFICATE:

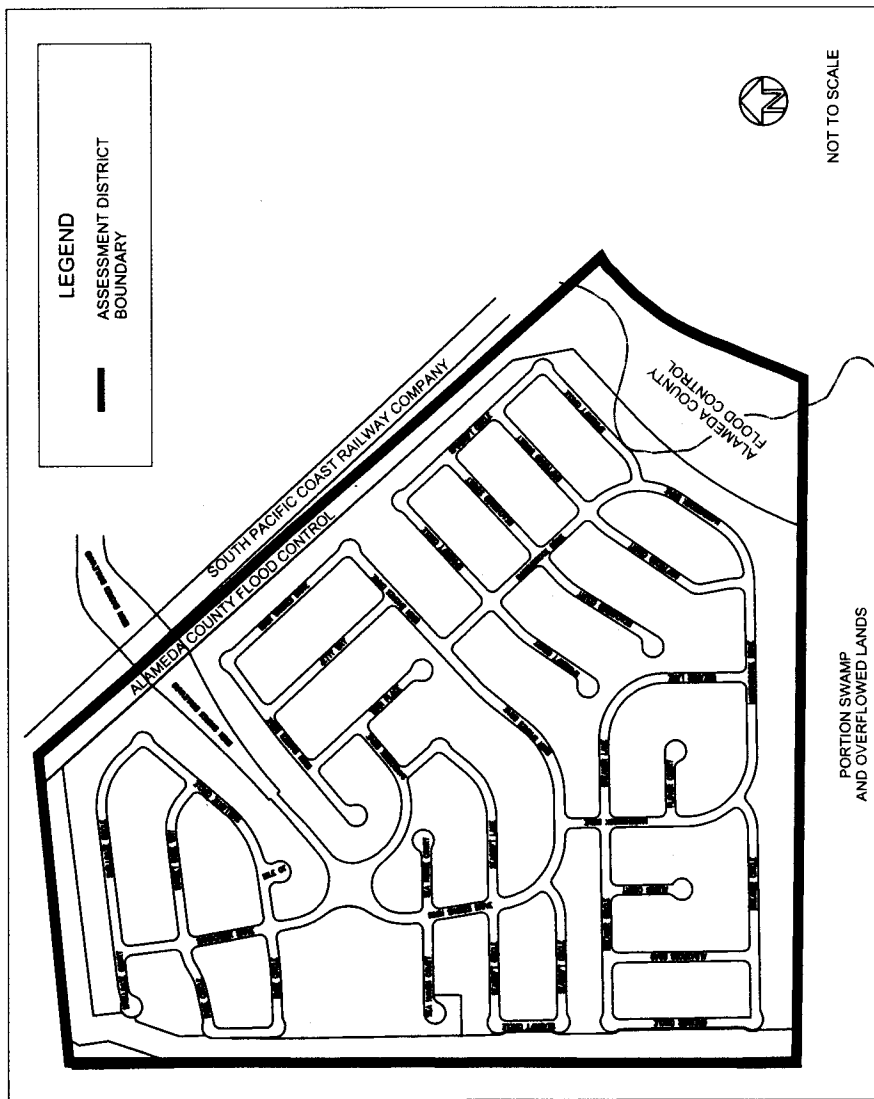
On this _____ Day of _____, this Assessment Diagram and
the Accompanying Assessment Roll have been filed in the Office of the Auditor of Alameda
County.

**AUDITOR OF THE COUNTY OF ALAMEDA,
STATE OF CALIFORNIA**

COUNTY RECORDER'S CERTIFICATE:

Recorded this _____ Day of _____, in the Office of the
County Recorder of the County of Alameda, in Book _____ of Maps of Assessment District
at Pages _____ Thereof at _____

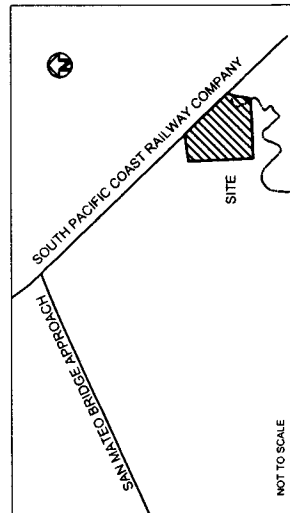
**COUNTY RECORDER,
COUNTY OF ALAMEDA, STATE OF CALIFORNIA**



NOT TO SCALE

**ASSESSMENT DIAGRAM
MAINTENANCE DISTRICT NO. 2
(Eden Shores)**

NOTE:
For a detailed description of the lines and dimensions of the lots, reference
is made to the Alameda County Assessor's Maps for the fiscal year 2004-05.
For information on the streets and other appurtenant lines and dimensions
reference is made to the filed final map of Tracts
7055, 7317, 7360, and 7361.



NOT TO SCALE

PREPARED BY FRANCISCO & ASSOCIATES, INC.

PART D

METHOD OF APPORTIONMENT OF ASSESSMENT

GENERAL

Chapter 10, Article 10 of the Hayward Municipal Code and as supplemented by the provisions of Chapter 26 of Part 3 of Division 7 of the Streets and Highways Code of the State of California permits the establishment of assessment districts by agencies for the purpose of providing certain public improvements which include the operation, maintenance and servicing of water buffer channels, water treatment ponds, masonry walls, predator fences and landscaping.

Proposition 218 requires that maintenance assessments must be levied according to benefit rather than according to assessed value. In addition, Article XIID, Section 4(a) of the California Constitution limits the amount of any assessment to the proportional special benefit conferred on the property.

Because assessments are levied on the basis of benefit, they are not considered a tax, and, therefore, are not governed by Article XIII A of the California Constitution.

Article XIID provides that publicly owned properties must be assessed unless there is clear and convincing evidence that those properties receive no special benefit from the assessment. Exempted from the assessment would be the areas of public streets, public avenues, public lanes, public roads, public drives, public courts, public alleys, public easements and rights-of-ways.

The properties benefiting from the operation, maintenance and servicing of water buffer channels, water treatment ponds, masonry walls, predator fences and landscaping consist of the 525 single-family residential lots located within Tracts No. 7317, 7360 and 7361.

Each of the 525 single-family residential lots receive a special benefit in that they are able to be developed because protection to the adjacent open space has been provided through the construction of these improvements. The special benefit derived by the individual parcels is indistinguishable between parcels. Therefore, all residential parcels derive the same benefit and the corresponding method of assessment for residential land uses is based on a per parcel basis.

The projected FY 2005-06 operation and maintenance cost, including incidental costs, is \$81,375.00. Since the amount needed to operate and maintain facilities in this District is below the annual assessment, the following amount should be collected:

\$155.00 per parcel.

PART E

PROPERTY OWNER LIST & ASSESSMENT ROLL

A list of names and addresses of the owners of all parcels within the City of Hayward's Maintenance District No. 2 is shown on the last equalized Property Tax Roll of the Assessor of the County of Alameda, which is hereby made a part of this report. This list is keyed to the Assessor's Parcel Numbers as shown on the Assessment Roll on file in the Office of the Hayward City Clerk.

The proposed collection rate and the amount for FY 2005-06 apportioned to each lot or parcel, as shown on the latest roll at the Assessor's Office, are on file in the Office of the City Clerk. The description of each lot or parcel is part of the records of the Assessor of the County of Alameda and these records are, by reference, made a part of this report.

The total amount proposed to be collected for FY 2005-06 is \$81,375.00.

The Assessment Roll for FY 2005-06 is included on the following page of this Report and is on file in the Office of the Hayward City Clerk.

APPENDIX A
FY 2005-06
ASSESSMENT ROLL

APPENDIX A

A-1

***CITY OF HAYWARD - EDEN SHORES
MAINTENANCE DISTRICT NO. 2***

APPENDIX A

[illegible]

***CITY OF HAYWARD - EDEN SHORES
MAINTENANCE DISTRICT NO. 2***

APPENDIX A

[illegible]

APPENDIX A

A-4

***CITY OF HAYWARD - EDEN SHORES
MAINTENANCE DISTRICT NO. 2***

APPENDIX A

[illegible]

APPENDIX A

A-6

APPENDIX A

A-7

***CITY OF HAYWARD - EDEN SHORES
MAINTENANCE DISTRICT NO. 2***

APPENDIX A

[illegible]

APPENDIX A

A-9

***CITY OF HAYWARD - EDEN SHORES
MAINTENANCE DISTRICT NO. 2***

APPENDIX A

[illegible]

***CITY OF HAYWARD - EDEN SHORES
MAINTENANCE DISTRICT NO. 2***

APPENDIX A

[illegible]

***CITY OF HAYWARD - EDEN SHORES
MAINTENANCE DISTRICT NO. 2***

APPENDIX A

[illegible]

**CITY OF HAYWARD - EDEN SHORES
MAINTENANCE DISTRICT NO. 2**

APPENDIX A

PARCEL NUMBER	LEG. NO.	FINAL AMOUNT	DESCRIPTION
461-0103-061-00	641	\$155.00	MAINTENANCE DISTRICT NO. 2, EDEN SHORES
461-0103-062-00	641	\$155.00	MAINTENANCE DISTRICT NO. 2, EDEN SHORES
461-0103-063-00	641	\$155.00	MAINTENANCE DISTRICT NO. 2, EDEN SHORES
461-0103-064-00	641	\$155.00	MAINTENANCE DISTRICT NO. 2, EDEN SHORES
461-0103-065-00	641	\$155.00	MAINTENANCE DISTRICT NO. 2, EDEN SHORES
461-0103-066-00	641	\$155.00	MAINTENANCE DISTRICT NO. 2, EDEN SHORES
461-0103-067-00	641	\$155.00	MAINTENANCE DISTRICT NO. 2, EDEN SHORES
461-0103-068-00	641	\$155.00	MAINTENANCE DISTRICT NO. 2, EDEN SHORES
461-0103-069-00	641	\$155.00	MAINTENANCE DISTRICT NO. 2, EDEN SHORES
461-0103-070-00	641	\$155.00	MAINTENANCE DISTRICT NO. 2, EDEN SHORES
461-0103-071-00	641	\$155.00	MAINTENANCE DISTRICT NO. 2, EDEN SHORES
461-0103-072-00	641	\$155.00	MAINTENANCE DISTRICT NO. 2, EDEN SHORES
461-0103-073-00	641	\$155.00	MAINTENANCE DISTRICT NO. 2, EDEN SHORES
461-0103-074-00	641	\$155.00	MAINTENANCE DISTRICT NO. 2, EDEN SHORES
461-0103-075-00	641	\$155.00	MAINTENANCE DISTRICT NO. 2, EDEN SHORES
461-0103-076-00	641	\$155.00	MAINTENANCE DISTRICT NO. 2, EDEN SHORES
461-0103-077-00	641	\$155.00	MAINTENANCE DISTRICT NO. 2, EDEN SHORES
461-0103-078-00	641	\$155.00	MAINTENANCE DISTRICT NO. 2, EDEN SHORES
461-0103-079-00	641	\$155.00	MAINTENANCE DISTRICT NO. 2, EDEN SHORES
461-0103-080-00	641	\$155.00	MAINTENANCE DISTRICT NO. 2, EDEN SHORES
461-0103-081-00	641	\$155.00	MAINTENANCE DISTRICT NO. 2, EDEN SHORES
TOTAL		\$81,375.00	

DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO. 05-

Introduced by Council Member _____

me
4/18/05

RESOLUTION APPROVING THE ENGINEER'S REPORT,
CONFIRMING THE ASSESSMENT DIAGRAM AND
ASSESSMENT, AND ORDERING LEVY AND COLLECTION
OF ASSESSMENT FOR THE 2005-06 FISCAL YEAR,
MAINTENANCE DISTRICT NO. 2, EDEN SHORES BUFFER
ZONE AND PRE-TREATMENT POND (MD No.2)

WHEREAS, by Resolution No.05-016 adopted March 8, 2005, a resolution declaring intention to levy assessments for fiscal year 2005-06, this City Council preliminarily approved the Engineer's Report submitted in accordance with the provisions of section 10-10.25 of the Hayward Municipal Code; and

WHEREAS, public meetings were held on March 23 and April 14, 2005, to provide information and allow affected owners an opportunity to speak; and

WHEREAS, April 26, 2005, at the hour of 8:00 p.m., in the regular meeting place of this Council, City Council Chambers, 777 B Street, 2nd Floor, Hayward, California, has been appointed as the time and place for a hearing by this City Council of protests for levy of assessment; and

WHEREAS, at the appointed time and place said hearing was duly and regularly held, and all interested persons desiring to be heard were given an opportunity to be heard, and all matters and things pertaining to said levy were fully heard and considered by this City Council.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Hayward, as follows:

1. At the closing of the public hearing, the property owners owning more than 50 percent of the area of chargeable lands within the proposed maintenance district had not filed written protests against the proposed levy of assessment;
2. The public interest, convenience, and necessity require that the levy be assessed;
3. The properties benefitted by the improvements and to be assessed to reimburse the costs and expenses thereof, and the exterior boundaries thereof, are shown

on the maintenance district diagram included in the engineer's report attached hereto as Exhibit "A";

4. Said engineer's report as a whole and each part thereof, to wit:
 - (a) the engineer's estimate of the itemized and total costs and expenses of the improvements and of the incidental expenses in connection therewith and the method of cost allocation and schedule of assessments;
 - (b) assessment roll, identifying the property within the district and setting the base monetary obligation of each property;
 - (c) the maintenance district diagram;
 - (d) the map of the maintenance district showing the boundaries and the respective lots within the district;

are finally approved and confirmed and incorporated herein.

5. Adoption of the engineer's report as a whole, estimate of the costs and expenses, the diagram, the assessment and the collection of fees, as contained in said report, as hereinabove determined and ordered, is intended to and shall refer and apply to said report, or any portion thereof, as amended, modified, or revised or corrected by, or pursuant to and in accordance with, any resolution or order, if any, heretofore duly adopted by or made by this City Council.
6. The assessment in the amount of \$155.00 to pay the costs and expenses of the maintenance of the improvements is hereby levied, and the remaining funds on deposit in the improvement fund are adequate to cover a portion of the assessments for the 2005-06 fiscal year, and the City of Hayward Director of Finance is hereby directed to expend said money for the maintenance of the improvements set forth in Resolution No. 05-016 and described in the engineer's report, and it is hereby determined to order the collection of \$155.00 per lot.
7. Based on the oral and documentary evidence offered and received, including the engineer's report, this City Council expressly finds and determines:
 - (a) that each of the lots in the district will be specially benefitted by the improvements at least in the amount, if not more than the amount, of the assessment apportioned against the lot;

- (b) that there is substantial evidence to support this finding and determination as to special benefit;
 - (c) any public property owned by any public agency and in use in the performance of a public function with the district shall not be assessed.
- 8. Immediately upon the adoption of this resolution, but in no event later than the third Monday in August following such adoption, the City Clerk shall file a certified copy of this resolution, the diagram, and the assessment with the Auditor of the County of Alameda. Upon such filing, the County Auditor shall enter on the county assessment roll opposite each lot or parcel of land the amount of assessment thereupon as shown in the assessment. The assessments shall be collected at the same time and in the same manner as county taxes are collected, and all laws providing for the collection and enforcement of county taxes shall apply to the collection and enforcement of the assessments. After collection by the County of Alameda, the net amount of the assessments, after deduction of any compensation due the county of collection, shall be paid to the Director of Finance of the City of Hayward.
- 9. Upon receipt of monies representing assessments collected by the county, the Director of Finance of the City of Hayward shall deposit the monies in the City treasury to the credit of an improvement fund, under the distinctive designation of said Maintenance District No. 2 - Eden Shores Buffer Zone and Pre-treatment Pond. Monies in said improvement fund shall be expended only for said maintenance of the improvements set forth in the engineer's report, referenced in Resolution No. 05-016.

IN COUNCIL, HAYWARD, CALIFORNIA_____, 2005

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward